

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Customs Court

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ERRATUM

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THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 80-35)

Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of manmade fiber textile products manufactured or produced in Thailand

There is published below a directive of December 10, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in categories 641, 645, and 646 manufactured or produced in Thailand. This directive amends, but does not cancel, that committee's directive of December 27, 1978 (T.D. 79-43).

This directive was published in the Federal Register on December 14, 1979 (44 F.R. 72617), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C., December 10, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of December 27, 1978, from the chairman,

Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool, and manmade fiber textile products, produced or manufactured in Thailand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 10, 1979, and for the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of manmade fiber textile products in categories 641 and 645/646, produced or manufactured in Thailand, in excess of the following levels of restraint:

<i>Category</i>	<i>Amended 12-month level of restraint ¹</i>
641	130,167 dozen
645/646	60,790 dozen

The actions taken with respect to the Government of Thailand and with respect to imports of manmade fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-36)

Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of manmade fiber textile products manufactured or produced in India

There is published below a directive of December 4, 1979, received by the Commissioner of Customs from the acting chairman, Committee

¹ The levels of restraint have not been adjusted to account any imports after Dec. 31, 1978.

for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in categories 636 and 666 manufactured or produced in India. This directive amends, but does not cancel, that committee's directive of January 5, 1979 (T.D. 79-82).

This directive was published in the Federal Register on December 7, 1979 (44 F.R. 70515), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 4, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel the directive of January 5, 1979, from the chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, for the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton, wool, and manmade fiber textile products, produced or manufactured in India.

Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 7, 1979, to amend the level of restraint previously established for manmade fiber textile products in category 666, produced or manufactured in India to 512,821 pounds.¹

¹ These levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1978. Imports during the January-September period of 1979 amounted to 9,019 dozen in category 636.

Pursuant to the foregoing authorities, you are further directed to prohibit, effective on December 7, 1979, and for the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, entry for consumption or withdrawal from warehouse for consumption of manmade fiber textile products in category 636 in excess of 24,283 dozen.¹

Textile products in category 636 which have been exported to the United States prior to January 1, 1979, shall not be subject to this directive.

Textile products in category 636 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of India and with respect to imports of manmade textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-37)

Cotton Textile Products—Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in Taiwan

There is published below a directive of December 5, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in various categories manufactured or produced in Taiwan. This directive amends, but does not cancel, that committee's directive of December 22, 1978 (T.D. 79-48).

¹ These levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1978. Imports during the January-September period of 1979 amounted to 9,619 dozen in category 636.

This directive was published in the Federal Register on December 11, 1979 (44 F.R. 71446), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE
Washington, D.C., December 5, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,
Washington, D.C.*

DEAR MR. COMMISSIONER: On December 22, 1978, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and manmade fiber textile products in certain specific categories, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1979, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done in Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Textile Agreement of June 8, 1978, as amended, concerning cotton, wool, and manmade fiber textile products exported from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on December 6, 1979, the levels of restraint established in the directive of December 22, 1978, for categories 333/334/335, 338/339, 340, and 347/348 to the following levels:

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool, and manmade fiber textile products from Taiwan which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

<i>Category</i>	<i>Amended 12-month levels of restraint²</i>	
333/334/335	101,564	dozen of which not more than 53,191 dozen shall be in category 333/334 and not more than 63,608 dozen shall be in category 335
338/339	478,901	dozen
340	637,609	dozen
347/348	840,320	dozen of which not more than 412,709 dozen shall be in category 347 and not more than 637,691 dozen shall be in category 348

The actions taken with respect to Taiwan, and with respect to imports of cotton textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
 Implementation of Textile Agreements.*

(T.D. 80-38)

Cotton, Wool, and Manmade Fiber Textile Products—Imported for Personal Use

Excluding from quota and visa requirements, cotton, wool, and manmade fiber textile products imported for noncommercial, personal use of the importer

There is published below a directive of November 21, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning shipments of textile products imported for the noncommercial, personal use of the importer. This directive cancels and supersedes that committee's directives of November 30, 1972, and July 10, 1978 (T.D. 73-6 and 78-349, respectively).

² The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1978.

This directive was published in the Federal Register on November 27, 1979 (44 F.R. 67701), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., November 21, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directives issued to you on November 30, 1972, and July 10, 1978, by the chairman, Committee for the Implementation of Textile Agreements concerning the exclusion from coverage of any directives establishing quantitative limitations on cotton, wool, and/or manmade fiber textiles and textile products, of shipments, valued at \$250 or less, which are imported for the noncommercial, personal use of the individual importing the merchandise.

Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the procedures of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on November 27, 1979, and until further notice, to exclude from the coverage of any directives now, or hereafter put into effect, of cotton, wool, and manmade fiber textiles and textile products satisfying the following requirements:

Cotton textiles and cotton textile products in categories 300-369, wool textile products in categories 400-469, manmade fiber textile products in categories 600-669 and any additional cotton, wool, and manmade fiber textile categories hereafter incorporated into the textile category system, entered into the United States for consumption or withdrawn from warehouse for consumption, which are imported for the noncommercial, personal use of the individual importing the merchandise, regardless of value. The exception is Hong Kong in which case only those shipments "accompanying a traveler for personal use" and those which are entered as "exempt from duty as bonafide gifts" have been excluded from agreement coverage.

A detailed description of the textile categories in terms of TSUSA

numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the administration of controls on imports of cotton textiles and cotton textile products, wool textile products, and manmade fiber textile products, produced or manufactured abroad, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-39)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Macau

There is published below a directive of December 19, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in various categories manufactured or produced in Macau.

This directive was published in the Federal Register on December 26, 1979 (44 F.R. 76384), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 19, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On December 27, 1978, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, of cotton, wool, and manmade fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 26, 1979, and for the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and manmade fiber products in categories 333/334/335, 338, 340, 347/348, 445/446, and 633/634/635, produced or manufactured in Macau, in excess of the following amounts:

<i>Category</i>	<i>Adjusted 12-month level of restraint²</i>	
333/334/335	90,000	dozen
338	110,530	dozen
340	101,958	dozen
347/348	261,943	dozen
445/446	74,639	dozen
633/634/635	184,753	dozen

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carry-forward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

² The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1978.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton and manmade fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-40)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction
on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Korea

There is published below a directive of December 4, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning export visa and exempt certification requirements for the entry of cotton, wool, and manmade fiber textile products manufactured or produced in Korea. This directive further amends, but does not cancel, that committee's directive of May 19, 1972 (T.D. 72-339).

This directive was published in the Federal Register on December, 7, 1979 (44 F.R. 70516), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division)

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE
Washington, D.C., December 4, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,
Washington, D.C.*

DEAR MR. COMMISSIONER: This letter further amends, but does

not cancel, the directive of May 19, 1972, for the chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the Federal Register, entry into the United States for consumption and withdrawal from the warehouse for consumption of cotton, wool, and manmade fiber textile products, produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. It also further amends, but does not cancel, the directive of August 22, 1973, which established a mechanism to exempt from the levels of the bilateral agreement between the Governments of the United States and the Republic of Korea, certain textile products which have been certified for exemption by the Government of the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11961 of January 6, 1977, the directives of May 19, 1972, and August 22, 1973, as previously amended, are hereby further amended to authorize Choe Hong Geon (Choe, H.G.) to issue visas and certifications for exempt cotton, wool, and manmade fiber textile products exported from the Republic of Korea, effective on November 1, 1979, replacing Kim Chul Su. Goods covered by visas and certifications issued by Kim Chul Su before November 1, 1979, shall not be denied entry.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and manmade fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-41)

Wool Textile Products—Restriction on Entry

Restriction on entry of wool textile products manufactured or produced in Malaysia

There is published below a directive of November 19, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of wool textile products in categories 445 and 446 manufactured or produced in Malaysia. This directive amends, but does not cancel, that committee's directive of December 27, 1978 (T.D. 79-49).

This directive was published in the Federal Register on November 23, 1979 (44 F.R. 67204), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C. November 19, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978, by the chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and manmade fiber textile products, produced or manufactured in Malaysia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 23, 1979, and for the 12-month period beginning on January 1, 1979, and extending through

December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in categories 445 and 446, produced or manufactured in Malaysia, in excess of the following levels of restraint:

<i>Category</i>	<i>Amended 12-month level of restraint¹</i>
445	10,080 dozen
446	14,113 dozen

The actions taken with respect to the Government of Malaysia and with respect to imports of wool textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-42)

Cotton Textile Products—Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in Pakistan

There is published below a directive of November 28, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in categories 351 and 369 manufactured or produced in Pakistan. This directive amends, but does not cancel, that committee's directive of December 27, 1978 (T.D. 79-45).

This directive was published in the Federal Register on December 4, 1979 (44 F.R. 69706), by the committee.

(QUO-2-1)

Dated: January 22, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

¹ The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1978.

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., November 28, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,
Washington, D.C.*

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978, by the chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 4, 1979, to increase the 12-month level of restraint established for cotton textile products in category 369 (except TSUSA 336.1855) to 5,217,391 pounds.¹

Pursuant to the foregoing authorities, you are further directed to prohibit, effective on December 4, 1979, and for the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, entry for consumption or withdrawal from warehouse for consumption of cotton textile products in category 351 in excess of 6,647 dozen.²

Textile products in category 351 which have been exported to the United States prior to January 1, 1979, shall not be subject to this directive.

Textile products in category 351 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), Sep-

¹ The level of restraint has not been adjusted to reflect any imports after Dec. 31, 1978.

² Imports during the January-September period of 1979 have amounted to 5,368 dozen.

tember 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 21, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-43)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

Rates of exchange based on rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Brazil cruziero, Peoples Republic of China yuan, Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical) and Venezuela bolivar

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to part 159, subpart C, Customs Regulations (19 CFR 159, subpart C).

Brazil cruziero:

January 14-18, 1980.....	\$0. 0228
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Peoples Republic of China yuan:

January 14-15, 1980.....	\$0. 669389
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January 16-18, 1980.....	. 666711
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Hong Kong dollar:

January 14, 1980.....	\$0. 203749
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January 15, 1980.....	. 203832
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January 16, 1980.....	. 205339
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January 17, 1980.....	. 205634
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January 18, 1980.....	. 205761
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Iran rial:	
January 14-18, 1980	Not available
Philippines peso:	
January 14-18, 1980	\$0. 1355
Singapore dollar:	
January 14, 1980	\$0. 464360
January 15, 1980	. 463392
January 16, 1980	. 464684
January 17, 1980	. 464360
January 18, 1980	. 464684
Thailand baht (tical):	
January 14-17, 1980	\$0. 0487
January 18, 1980	. 048875
Venezuela bolivar:	
January 14-18, 1980	\$0. 2329

(LIQ-3-TRODE)

Dated: January 23, 1980.

G. SCOTT SHREVE,
Acting Director,
Duty Assessment Division.

(T.D. 80-44)

Reimbursable Services—Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with pay period beginning February 10, 1980.

<i>Installation:</i>	<i>Biweekly excess cost</i>
Montreal, Canada	\$14, 559
Toronto, Canada	24, 574
Kindley Field, Bermuda	7, 363
Nassau, Bahama Islands	13, 519
Vancouver, Canada	13, 341
Winnipeg, Canada	1, 982
Freeport, Bahama Islands	11, 394
Calgary, Canada	9, 655
Edmonton, Canada	2, 763

MITCHELL A. LEVINE,
Acting Comptroller.

(T.D. 80-45)

Customs-Approved Public Gauger

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43(b) of the Customs Regulations (19 CFR 151.43(b)) that the application of Laboratory Service, Inc., Lafayette Street, Carteret, N.J. 07008, to gauge imported petroleum and petroleum products in the Newark area, New York Customs region in accordance with the provisions of section 151.43(b) of the Customs Regulations is approved.

Dated: January 25, 1980.

SALVATORE E. CARAMAGNO,
*Acting Director, Office of
Regulations and Rulings.*

Customs-Approved Public Gauger

(T.D. 80-46)

Approval of public gauger performing gauging under standards and procedures required by Customs

Notice is hereby given pursuant to the provisions of section 151.43(b) of the Customs Regulations (19 CFR 151.43(b)) that the application of Capt. W. A. Walls, Inc., Mesquite Street, Corpus Christi, Tex., to gauge imported petroleum and petroleum products in the Customs districts of Brownsville-Cameron County, Tex., Corpus Christi, Tex., and Port Lavaca-Point Comfort, Tex., is approved.

Dated: January 25, 1980.

SALVATORE E. CARAMAGNO,
*Acting Director, Office of
Regulations and Rulings.*

(T.D. 80-47)

Revocation of Approval To Act as a Public Gauger for Customs Purposes

Notice is hereby given pursuant to the provision of section 151.43(d) of the Customs Regulations (19 CFR 151.43(d)) that the approval of International Cargo Surveyors, Inc., d.b.a. Chromaspec Labs, 716 D Montana Street, P.O. Box 71, South Houston, Tex. 77587, to

gauge imported petroleum and petroleum products in all Customs districts in accordance with the provisions of section 151, subpart C, of the Customs Regulations is hereby revoked.

Dated: _____

SALVATORE E. CARAMAGNO,
*Acting Director, Office of
Regulations and Rulings.*

(T.D. 80-48)

Wool and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of wool and manmade fiber textile products manufactured or produced in Yugoslavia

There is published below a directive of December 19, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of wool and manmade fiber textile products in categories 443 and 643 manufactured or produced in Yugoslavia.

This directive was published in the Federal Register on December 26, 1979 (44 F.R. 76385), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division.

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 19, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Textile Agreement of October 26 and 27, 1978, as amended, between the Governments of the United States and the Socialist Republic of Yugoslavia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive

Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980, and for the 12-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption of wool and manmade fiber textile products, in category 443/643, in excess of the following level of restraint:

<i>Category</i>	<i>12-month level of restraint</i>
443/643	14,270 dozen of which not more than 7,855 dozen shall be in category 443

In carrying out this directive, entries of wool and manmade fiber textile products in category 443/643, produced or manufactured in Yugoslavia, which have been exported prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1979, and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of October 26 and 27, 1978, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, which provide, in part, that: (1) Within the group limit the specific limit may be exceeded by no more than 5 percent in any agreement period; and (2) the group limit may be exceeded for carryover and carryforward not to exceed 11 percent of the applicable limit.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of wool and manmade fiber textile products from Yugoslavia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign

affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-49)

Cotton, Wool and Manmade Fiber Textile Products—Restriction on
Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Romania

There is published below a directive of December 12, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in various categories manufactured or produced in Romania.

This directive was published in the Federal Register on December 17, 1979 (44 F.R. 73137), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 12, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,
Washington, D.C.*

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 6 and 25, 1978, as amended, and the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United

States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980, and for the 12-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and manmade fiber textile products in categories 335, 338, 435/444, 443, 634, 643/644, 645/646, and 647, produced or manufactured in Romania, in excess of the following level of restraint:

<i>Category</i>		<i>12-month level of restraint</i>
335	36,320	dozen
338	256,000	dozen of which not more than 97,222 dozen shall be in TSUSA Nos. 380.0028, 380.0029, 380.0651 and 380.0652
435/444	6,944	dozen
443	7,483	dozen
634	53,269	dozen of which not more than 16,949 dozen shall be in TSUSA Nos. 376.5609, 380.0445, 380.5168, 380.-8410, 380.8416, 380.8417, and 791.7471; and not more than 36,320 dozen shall be in TSUSA Nos. 380.0405, 380.8101, 380.-8109, 380.8111, and 791.-7460.
643/644 pt. ¹	22,611	dozen
643/644 pt. ²	2,083	dozen
645/646	149,457	dozen
647	39,326	dozen

In carrying out this directive, entries of cotton, wool, and manmade fiber textile products in the foregoing categories, except categories 335 and 647, produced or manufactured in the Socialist Republic of Romania, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1979, and extending through December 31, 1979. In the event the levels of restraint estab-

¹ In category 643/644, only TSUSA Nos. 380.0464, 380.5176, 380.8451, 380.8452, 382.0478, 382.1282, and 382.8187.

² In category 643/644, all TSUSA numbers in the category except those listed in footnote 1.

lished for that period have been exhausted by previous entries such goods shall be subject to the levels set forth in this letter.

Cotton and manmade fiber textile products in categories 335 and 647 which have been exported to the United States prior to January 1, 1980, shall not be subject to this directive.

Cotton and manmade fiber textile products in categories 335 and 647 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreements, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that: (1) Certain wool and manmade fiber textile products that are subject to specific limits may be exceeded within the applicable group limits by designated percentages to account for flexibility; (2) consultation levels may be increased upon agreement between the two governments; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreements. Any appropriate future adjustments under the foregoing provision of the bilateral agreements will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton, wool, and manmade fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-50)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Singapore

There is published below a directive of December 14, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in various categories manufactured or produced in Singapore.

This directive was published in the Federal Register on December 20, 1979 (44 F.R. 75440), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C., December 14, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,
Washington, D.C.*

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980, and for the 12-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption

of cotton, wool, and manmade fiber textile products, exported from Singapore in the following categories on excess of the indicated 12-month levels of restraint:

<i>Category</i>	<i>12-month level of restraint</i>	
315	1, 000, 000	square yards
320	6, 000, 000	square yards
331	221, 429	dozen pairs
333/334/335	165, 375	dozen of which not more than 9,509 dozen shall be in category 333; not more than 50,208 dozen shall be in category 334; and not more than 130,464 dozen shall be in category 335
340	385, 875	dozen
341	48, 276	dozen
347/348	490, 088	dozen of which not more than 474,764 dozen shall be in category 347 and not more than 188,034 dozen shall be in category 348
445/446	20, 000	dozen
602	86, 207	pounds
604	700, 000	pounds
613	1, 000, 000	square yards
638/639	2, 885, 648	dozen of which not more than 360,706 dozen shall be in category 638
641	77, 276	dozen

In carrying out the directive, entries of cotton, wool, and manmade fiber textile products in the foregoing categories, except categories 333/334/335, 340, and 602, produced or manufactured in Singapore, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1979, and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Cotton and manmade fiber textile products in categories 333/334/335, 340, and 602 which have been exported to the United States prior to January 1, 1980, shall not be subject to this directive.

Textile products in categories 333/334/335, 340, 602 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore which provide, in part, that: (1) Within the aggregate and applicable group limits, specific limits and sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool, and manmade fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-51)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in the Philippines

There is published below a directive of December 19, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in various categories manufactured or produced in the Philippines.

This directive was published in the Federal Register on December 26, 1979 (44 F.R. 76386), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C., December 19, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 on January 6, 1977, you are directed to prohibit, effective on January 1, 1980, and for the 12-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and manmade fiber textile products in categories 340, 341pt., 442, 445/446, 459, 604, 631, 636pt., 640, 641, 645/646pt.,

and 649, produced or manufactured in the Philippines, in excess of the following level of restraint:

<i>Category</i>	<i>12-month level of restraint</i>
340	220,492 dozen
341pt. ¹	80,689 dozen
442	6,452 dozen
445/446	17,421 dozen
459	116,138 pounds
604	2,033,116 pounds
631	1,511,948 dozen pairs
636pt. ²	40,249 dozen
640	93,054 dozen
641pt. ³	62,872 dozen
641pt. ⁴	163,344 dozen
645/646pt. ⁵	84,264 dozen
649	3,607,489 dozen

In carrying out this directive, entries of textile products in the foregoing categories, except category 442, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1979, and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Wool textile products in category 442, exported prior to January 1, 1980, shall not be subject to this directive.

Textile products in category 442 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) 3 percent growth shall be applied to certain specified ceilings during the second and each successive agreement year; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appro-

¹ In category 341, only TSUSA Nos. 382.0039, 382.3302, 382.3305, and 382.3309.

² In category 636, only TSUSA Nos. 382.0413, 382.0416, 382.7832, 382.7834, 382.0466, 382.0469, 382.8173, and 382.8174.

³ In category 641, only TSUSA Nos. 382.0460 and 382.8130.

⁴ In category 641, only TSUSA Nos. 382.0459, 382.0401, 382.8133, 382.8137, 382.8143, and 382.8144.

⁵ In category 645/646, all TSUSA numbers except 382.0427 and 382.7870.

priate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool, and manmade fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign-affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-52)

Cotton, Wool, and Manmade Fiber Textile Products--Restriction
on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Malaysia

There is published below a directive of December 11, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in various categories manufactured or produced in Malaysia.

This directive was published in the Federal Register on December 14, 1979 (44 F.R. 72618), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 11, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980, and for the 12-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton, wool, and manmade fiber textile products, exported from Malaysia in the following categories in excess of the indicated 12-month levels of restraint:

<i>Category</i>	<i>12-month level of restraint</i>	
317	3, 000, 000	square yards
320	6, 500, 000	square yards
331	457, 190	dozen pair
339	128, 889	dozen
340	243, 158	dozen
347	89, 209	dozen
348	53, 833	dozen
445	10, 081	dozen
446	14, 113	dozen
604	365, 854	lbs.
613	2, 000, 000	square yards
638/639	141, 311	dozen of which not more than 75,884 dozen shall be in category 639

In carrying out this directive, entries of cotton, wool, and manmade fiber textile products in the foregoing categories, produced or manufactured in Malaysia, which have been exported to the United States prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1979, and extend-

ing through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint, including their sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton, wool, and manmade fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

(T.D. 80-53)

Cotton and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton and manmade fiber textile products manufactured or produced in Mexico

There is published below a directive of December 18, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton and manmade fiber textile products in various categories manufactured or produced in Mexico.

This directive was published in the Federal Register on December 26, 1979 (44 F.R. 76383), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 18, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1980, and for the 12-month period beginning on January 1, 1979, and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and manmade fiber textile products in the following categories, produced or manufactured in Mexico, in excess of the indicated 12-month levels of restraint:

<i>Category</i>	<i>12-month level of restraint</i>
338/339	393, 820 dozen
347/348	563, 490 dozen of which not more than 338,094 dozen shall be in category 347 and not more than 338,094 dozen shall be in category 348
359	152, 174 pounds
604 (only TSUSA No. 310.5049)	853, 659 pounds
633	50, 248 dozen
634/635	286, 450 dozen of which not more

		than 171,870 dozen shall be in category 634 and not more than 171,870 dozen shall be in category 635
638/639	13, 774, 573	square yards equivalent of which not more than 459,152 dozen shall be in category 638 and not more than 550,983 dozen shall be in category 639
641	236, 669	dozen
647/648	1, 400, 828	dozen of which not more than 840,497 dozen shall be in category 647 and not more than 840,497 dozen shall be in category 648
649	2, 437, 500	dozen

In carrying out this directive, entries of cotton and manmade fiber textile products in the foregoing categories, produced or manufactured in Mexico, which have been exported prior to January 1, 1980, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the 12-month period beginning on January 1, 1979, and extending through December 31, 1979. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of February 26, 1979, between the Governments of the United States and Mexico, provide, in part, that: (1) Specific limits or specific sublimits may be exceeded by not more than 7 percent in any agreement period; (2) these same limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), Septem-

ber 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton and manmade fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-54)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in India

There are published below directives of November 26 and December 28, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning visa, elephant and exempt certification requirements for entry of cotton, wool, and manmade fiber textile products manufactured or produced in India. The December 28 directive amends the November 28, 1979, directive which cancels and supersedes that committee's directive of May 13, 1975 (T.D. 75-137).

The directives were published in the Federal Register on November 29, 1979, and January 4, 1980 (44 F.R. 68504 and 45 F.R. 1125), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., November 26, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directive of May 13, 1975, as amended, issued to you by the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of certain cotton, wool, and manmade fiber textile products for which the Government of India had not issued an appropriate export visa, elephant-shaped certification, or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on January 7, 1980, and until further notice, to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of cotton, wool, and manmade fiber textile and apparel products, in categories 300-369, 400-469, and 600-669, produced or manufactured in India and exported on or after January 7, 1980, which are not visaed or certified in accordance with the procedures outlined below. Merchandise exported before January 7, 1980, which has been visaed or certified in accordance with previously established procedures shall not be denied entry.

Merchandise not covered separately in the following paragraphs shall be visaed. The visa will be an original, circular-stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice when such form is used) and will include its number, the date, signature, and title of the issuing official, and will show the correct categories and quantities in the shipment in the applicable category units.

Apparel products in categories 330-359, 431-459, and 630-659 made from handloomed fabrics of the cottage industry of India, not wholly by hand, shall be certified prior to exportation from India. The

certification will be an original elephant-shaped stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used) and will include its number, the date, signature, and title of the issuing official, and will show the correct categories and quantities in the shipment in the applicable category units, except, if the quantity indicated on the elephant-shaped certification or the visa is more than that of the shipment, entry shall be permitted. Otherwise, the categories and quantities shall be those determined by the U.S. Customs Service or the shipment shall be denied entry.

Handloom fabric, handmade, handloom, madeup articles, India items listed in the enclosure, and commercial shipments valued at \$250 or less, shall be certified prior to exportation from India. The certification will be an original, rectangular-shaped, stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice when such form is used) and will state the basis for exemption by use of the description "handloomed fabric," "handmade, handloom, madeup articles," "\$250 or less," or the name of the particular India item. The list of India items which may be amended in the future is enclosed.

Facsimiles of the visa and certification stamps are also enclosed.

Merchandise classified in TSUSA Nos. 360.0500, 360.1000, 360.1500, 360.7600, 360.7800, 361.4200, 361.4400, and 361.5420 do not require a visa or certification and shall not be charged to the levels of the bilateral agreement.

All merchandise covered by an invoice which has an exempt certification but includes merchandise other than that defined as subject to the exempt certification will be denied entry. Entry shall also be denied for merchandise covered by an invoice which has an elephant certification but includes merchandise other than that defined as subject to the elephant certification.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of textile products, produced or manufactured in India and exported to the United States, notwithstanding the designated shipment or shipments do not fulfill the aforementioned visa and certification requirements, whenever requested to do so in writing by the chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), Septem-

ber 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21832).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

Enclosure.

GOVERNMENT OF INDIA
TEXTILE VISA

CATEGORY	QUANTITY

GRI No.

SIGNATURE

TITLE

No. DATED

GOVERNMENT OF INDIA
CERTIFIED PRODUCTS OF
HANDLOOM FABRICS

CATEGORY	QUANTITY

G. R. I. No.

SIGNATURE

TITLE

No. DATED

GOVERNMENT OF INDIA
EXEMPT CERTIFICATE
DESCRIPTION

.....

GRI No.

SIGNATURE

TITLE

No. DATED

INDIA ITEMS

1. Kurtha..... A loose-fitting tunic, almost straight, in short, medium and long sizes. Some typical examples of Kurtha are: Kathiawar mirrored Kurtha, wooden-beaded Delhi Kurtha, Delhi embroidered Kurtha, Bandini Kurtha, Lucknow chikan Kurtha, Madras short Kurtha, Sanganer printed Kurtha, Phulkari Kurtha, etc.
2. Churidar Pyjama or Churidar Set. A pair of trousers, loose at waist, with either drawstring or hooks and tapering to a tight fit at ankle. It is traditionally a Moghul costume worn by Indian women since the 16th century along with a Kurtha and Dupatta (an oblong scarf).
3. Jawahar Jacket. A loose-fitting waist coat, with or without buttons, traditionally worn over Kurthas or Kameez by men and women.
4. Pherron..... A full-length dress loose and longer than the Kurtha with long loose sleeves worn originally by Kashmiris. Intricate embroidery depicting floral designs is done around the neck of this costume.
5. Angharkha..... A traditional dress of Moghul times, open down the front with decorative string or ribbon used to tie at the sides or center. (This also includes Angharkha or ribbed cotton worn in Rajasthan.)
6. Bagal Bandini..... A garment similar to Angharkha, short or long, with a wraparound effect and tied at the sides.
7. Ghagras/Lahngas.. Long, wide skirt with drawstrings or hooks. A garment usually reaching to or below ankles.
8. Pavadai..... A long, wide shirt similar to Ghagras, often in two-piece ensemble, as an accessory worn with Saree or Dupatta.
9. Choli..... A short blouse worn on festive occasions by the tribal people of Kuch and Rajasthan.
10. Lungi or Lungi Set. A long garment worn as a wraparound the lower half of the body, with or without a Kurtha, or a loose-fit blouse or a Choli.
11. Salwar/Garra..... Loose-fit trousers, legs may be straight or baggy at the thighs. This also includes Gararra which is a straight trouser up to the knee, and below the knee shaped like a Ghagra, with frills, etc.
12. Dupatta..... A scarf usually about 4 feet long, wrapped by women along with Kurtha and Churidar. This also includes other types of scarves worn in varied sizes, the characteristics being the same as above.
13. Ohdhani..... An oblong cloth about 6 to 7 feet long and 3 to 4 feet wide with overall embroidery or a woven jacquard weave with traditional designs like himroo shawl or made up of a fabric decorated with cotton/silk/zari or any other fibre yarn used to cover the body.
14. Chola..... An ankle-length, loose-fit, long Kurtha traditionally worn by religious priests.
15. Safa..... Headwear made up of printed or embroidered fabrics.

16. Aba..... An over garment close fit at the upper part with a Ghagra-type skirt touching the ankles.
17. Burka..... Over garment worn by Muslim women which covers the head and extends to the ankles.
18. Jama..... A long Kurtha traditionally worn by a special class of people.
19. Patka..... A long, traditional stole with Indian designs ornamented with art work of various types.
20. Tamba/Tambi..... Loose-fit trousers usually worn in North India.
21. Thailis..... Totobags, purses, pouch bags, and similar accessories to traditionally Indian dresses.
22. Toran..... A long, embroidered strip of cloth elegantly embroidered with plain or applique work embroidery, used for decorating the entrance doors of Indian residences. This represents a wide variety of fine embroidered pieces connected with folk art, particularly from Kathiawar in Gujarat (west coast of India).
23. Phulkari..... Decorative, embroidered, roughspun, cotton fabric with close darning stitch employed with strands of untwisted silk to make the flower-like embroidery.
24. Thombai..... Cylindrical hanging with handmade applique work of hand-printed/hand-painted/hand-embroidered fabrics. These are traditionally used in South Indian temples as decorative hangings from ceilings or in doorways for gala affairs.
25. Puri Chatta..... Flat, highly decorative umbrella with applique work.
26. Gabba..... Embroidered floor covering using waste rags. Usually embroidered or made in applique work on old woolen blanket or jute base with cotton backing peculiar to Kashmir region.
27. Shamiana..... Canopy or awning used as ceiling decoration.
28. Kalamkari..... Hand painted/printed with wax resist wall pieces depicting mythological characters.
29. Chakla..... Wall hangings with folk embroidery, with or without mirror work, framed and unframed. The stitches are interspersed and interplaced.
30. Batik wall pieces... Wall hangings made of cotton fabrics hand painted with batik technique. The designs are usually mythological narrations.

(T.D. 80-55)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in the Republic of the Philippines

There are published below directives of November 21, December 20, and December 28, 1979, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Tex-

tile Agreements, concerning visa and exempt certification requirements for cotton, wool, and manmade fiber textile products manufactured or produced in the Republic of the Philippines. The December 20 and 28 directives amend the November 21, 1979, directive. The November 21 directive cancels and supersedes that committee's directive of August 31, 1976 (T.D. 76-307).

The directives were published in the Federal Register on November 28, 1979 (44 F.R. 86005), December 27, 1979 (44 F.R. 76574), and January 4, 1980 (45 F.R. 1125), by the committee.

(QUO-2-1)

Dated: January 28, 1980.

WILLIAM D. SLYNE
(For G. Scott Shreve, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., November 21, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directive of August 31, 1976, as amended, from the chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool, and manmade fiber textile products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Made-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on January 1, 1980, and until further notice, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and manmade fiber textile and apparel products

in categories 300-369, 400-469, and 600-669, produced or manufactured in the Philippines and exported on and after January 1, 1980, which are not visaed or certified for exemption in accordance with the procedures outlined below. Cotton, wool, and manmade fiber textile products which have been exported before January 1, 1980, and visaed or certified in accordance with previously established requirements shall not be denied entry.

Cotton, wool, and manmade fiber textile and apparel products exported from the Philippines on and after January 1, 1980, shall be visaed with a circular stamp in order to be entered into the United States for consumption or withdrawn from warehouse for consumption.

Certain cotton, wool, and manmade fiber textile and apparel products which are exempt from the levels of restraint shall be certified by the Government of the Republic of the Philippines prior to exportation using a rectangular-shaped stamp. The basis for exemption shall be stated on the certification by the use of a description, such as "macrame products," "less than \$250," or the name of a particular traditional folklore product which is listed on the enclosure to this letter.

Merchandise shall be visaed or certified by the placing of original stamped markings (the visa or certification) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa and certification shall include its number and date and the signature of the issuing official. The visa shall also state the correct categories and quantities in the shipment in applicable category units, except, if the quantity indicated on the visa is more than that of the shipment, entry shall be permitted. Otherwise, the categories and quantities shall be those determined by the U.S. Customs Service, or the shipment shall be denied entry.

Facsimiles of the visa and certification stamps are enclosed, as are the names of the officials authorized by the Government of the Republic of the Philippines to issue visas and certifications.

Merchandise imported for the personal use of the importer, and not for resale, does not require a visa or certification for entry, regardless of value.

Merchandise covered by an invoice which has an exempt certification but contains both exempt and nonexempt textile products shall not be permitted entry.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of textile and apparel products, produced or manufactured in the Philippines and exported to the United States, notwithstanding the designated merchandise does not fulfill the

aforementioned visa and certification requirements, whenever requested to do so in writing by the chairman of the Committee for the Implementation of Textile Agreements.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool, and manmade fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

Enclosure.

Republic of the Philippines
OFFICE OF THE PRESIDENT
GARMENTS & TEXTILE EXPORT BOARD

CERTIFICATE NO.

EXEMPTED ITEMS

DESCRIPTION

CERTIFIED ON

AUTHORIZED SIGNATURE

Republic of the Philippines
OFFICE OF THE PRESIDENT
GARMENTS & TEXTILE EXPORT BOARD

TEXTILE VISA

CATEGORY QUANTITY

SIGNATURE _____

TITLE _____

NO. _____ DATE _____

PHILIPPINE TRADITIONAL FOLKLORE HANDICRAFT TEXTILE
PRODUCTS

Philippine items are traditional Philippine products, cut, sewn, or otherwise fabricated by hand in cottage units of the cottage industry. The following is the agreed list of such items:

Batik and hablon fabrics—Handwoven fabrics of the cottage industry.

Banaue cloth—Cotton, handloom fabric in multicolors.

Other handwoven and handloom fabrics of the cottage industry.

Articles and garments made by hand from handwoven and handloomed fabrics.

Hand-crocheted garments, shawls, hats, and accessories, including the "Catsa group" type garments (heavily hand-crochet work in combination with coarse greige or dyed cotton fabric or batik fabric).

Macrame handicraft articles, hand-plied or braided and hand-tied, not combined with woven or knit material (except if such material is used for nonessential decorative and ornamental purposes).

OFFICIALS AUTHORIZED BY THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES TO ISSUE VISAS AND CERTIFICATIONS FOR EX-
EMPTION FOR TEXTILE AND APPAREL PRODUCTS EXPORTED TO
THE UNITED STATES

Luis R. VILLAFUERTE

Chairman,

Garments and Textile Export Board.

AIDA B. CABARDO,

Officer-in-Charge,

Garments and Textile Export Board Secretariat.

ANTONIO T. CARPIO

Chairman,

Garments and Textile Export Board Technical Committee.

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 20, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of November 21, 1979, which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool, and manmade fiber textile

products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on January 1, 1980, to recognize Honesto V. Bonnevie, Chairman, Garments and Textile Export Board Technical Committee, as authorized to issue and sign export visas and exempt certifications, replacing Antonio T. Carpio, who will no longer issue these documents. A revised list of officials of the Government of the Republic of the Philippines who are authorized to issue export visas and certifications for exemption is enclosed.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool, and manmade fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

OFFICIALS AUTHORIZED BY THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES TO ISSUE VISAS AND CERTIFICATIONS FOR EXEMPTION
FOR TEXTILE AND APPAREL PRODUCTS EXPORTED TO THE
UNITED STATES

LUIS R. VILLAFUERTE,

Chairman,

Garments and Textile Export Board.

AIDA B. CABARDO

Officer-in-Charge,

Garments and Textile Board Secretariat.

HONESTO V. BONNEVIE,

Chairman,

Garments and Textile Export Board Technical Committee.

U.S. DEPARTMENT OF COMMERCE,
INDUSTRY AND TRADE ADMINISTRATION,
Washington, D.C., December 28, 1979.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of November 21, 1979, from the chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool, and manmade fiber textile products for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to permit entry into the United States for consumption, or withdrawal from warehouse for consumption of cotton, wool, and manmade fiber textile products in categories 300-369, 400-469, and 600-669, produced or manufactured in the Philippines and exported on and after December 20, 1979, for which the new export visa or exempt certification have been used.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool, and manmade fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the
Implementation of Textile Agreements.

ERRATUM

In CUSTOMS BULLETIN, Volume 14, No. 1, dated January 2, 1980, T.D. 80-5, page 7, information pertaining to the Finland markka should be deleted.

U.S. Customs Service

General Notice

(062391/521265)

American Manufacturer's Petition

Notice of receipt of American manufacturer's petition requesting the reclassification of footwear known as moon boots

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: The Customs Service has received a petition from an American manufacturer of waterproof footwear requesting that importations of certain footwear known as moon boots be reclassified as other footwear which is over 50 percent by weight of rubber or plastics under item 700.60, Tariff Schedules of the United States (TSUS), or, in the alternative, as other protective footwear under item 700.53, TSUS. It is currently the position of Customs that the particular moon boots in question, as well as footwear of the same class or kind, are classifiable as other footwear which is over 50 percent by weight of rubber or plastics and having uppers of which over 90 percent of the exterior surface area is rubber or plastics under item 700.58, TSUS.

DATES: Interested parties may comment on this petition. Comments (preferably in triplicate) must be received on or before (60 days from the date of publication of this notice in the Federal Register).

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, room 2335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-8181.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of water-

proof footwear requesting that importations of certain footwear known as moon boots be reclassified under the provision for other footwear which is over 50 percent by weight of rubber or plastics (except footwear having uppers of which over 50 percent of the exterior surface area is leather) in item 700.60, Tariff Schedules of the United States (TSUS), dutiable at the rate of 20 percent ad valorem and subject to an American selling price (ASP) basis of valuation. Headnote 3(b), schedule 7, subpart 1A, TSUS. In the alternative, the petition argues for reclassification under the provision for other protective footwear which is over 50 percent by weight of rubber or plastics and having soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear with uppers of nonmolded construction formed by sewing the parts thereof together and having exposed on the outer surface a substantial portion of functional stitching) in item 700.53, TSUS, dutiable at the rate of 37.5 percent ad valorem. In headquarters letter dated September 14, 1979, file No. 062391, the Customs Service held that moon boots of the kind in question were classifiable under the provision for other footwear which is over 50 percent by weight of rubber or plastics and having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having uppers of which over 50 percent of the exterior surface area is leather or footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper) in item 700.58, TSUS, dutiable at the rate of 6 percent ad valorem.

According to the American manufacturer's petition, the imported moon boot, which extends above the ankle and is designed to be worn over, or in lieu of, other footwear as a protection against water, cold, or inclement weather, is over 50 percent by weight of rubber or plastics, has soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics, and has a premolded rubber/plastic shell bottom, the sides of which extend upward from the bottom of the boot to above the insole of the boot. The sides of the premolded shell bottom are sewn to, and overlap by approximately one-half inch, the polyurethane top portion of the boot. Further, the petition states that the polyurethane portion of the boot is lined with material other than polyvinyl chloride.

The basic issue is whether the subject moon boot has a foxing or foxing-like band applied or molded at the sole which overlaps the upper and which would preclude classification under item 700.58, TSUS.

The petitioner argues that the effect of Customs letter of September 14, 1979, is to rule that in order to constitute foxing or foxing-like band, the overlapping must occur at the insole. The petitioner insists

that the statute does not require that overlapping of the upper occur at the insole.

It is pertinent to note that the portion of the premolded shell, i.e., that portion beginning just below the insole and extending upward about 4 inches, forms part of the upper of the boot inasmuch as the upper is defined as that part of the boot beginning just below the insole. The insole is that part which lies on the inside of the boot, directly beneath the foot. The overlapping occurs, therefore, several inches above the insole, i.e., on the upper of the boot.

Since the upper consists of both molded and nonmolded material, therefore, the petitioner argues, in the alternative, that the moon boot is not precluded from classification under the provision for other protective footwear in item 700.53, TSUS. The petitioner asserts that in order to be excluded from classification under item 700.53, TSUS, the entire upper, and not simply a part of the upper, must be of nonmolded construction. In view of the fact that a portion of the premolded shell of the boot forms part of the upper, petitioner concludes that classification under item 700.53, TSUS, is proper and that such classification would preclude Customs classification under item 700.58, TSUS.

COMMENTS

Pursuant to section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with sections 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, room 2335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

AUTHORITY

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Dated: January 24, 1980.

DONALD W. LEWIS,
*Director, Office of
Regulations and Rulings.*

[Published in the Federal Register, Jan. 30, 1980 (45 F.R. 6881)]

Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, and not otherwise published, is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Treasury decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the Office of Regulations and Rulings.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings, attention: Legal Reference Area, room 2404, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. These copies will be made available at a cost to the requester of 10 cents per page. However, the Customs Service will waive this charge if the total number of pages copied is 10 or less.

Decisions listed in earlier issues of the CUSTOMS BULLETIN, through October 24, 1979, are available in microfiche format at a cost of \$15.10 (15 cents per sheet of fiche). It is anticipated that addition to the microfiche will be made quarterly and subscriptions are available. Requests for the microfiche now available and for subscriptions should be directed to the Legal Reference Area. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: January 30, 1980.

HARVEY B. FOX,
*Acting Director, Office of
Regulations and Rulings.*

Date of decision	File No.	Issue
12-26-79	104283	Vessel repair: Dutiability of repairs performed on special purpose vessel during the first 6 months of voyage
12-31-79	104421	Instruments of international traffic: Whether clip-on refrigerator units qualify

Date of decision	File no.	Issue
11-10-79	059982	Classification: Benzenoid mixture (403.90)
12-18-79	060840	Classification: Whether an overlaid fabric patch on pullover sweater constitutes ornamentation (380.00)
11-20-79	060923	Classification: Wool horse coolers (388.40)
12-28-79	060973	Classification: 2,3 dichloroanisole (403.60)
12-12-79	061565	American selling price: Woman's casual, open-toe, open-back slip-on shoe, with terry upper and sock lining (700.60)
12-28-79	061618	Valuation: Whether the American selling price of sandals can be the price at which the domestic article is freely offered to all retailers, if not freely offered to all distributors
12-28-79	062282	Classification: Teflon tubes (771.55, 772.65)
12-19-79	062554	Classification: Plastic skeleton (737.65, 737.95)
12-17-79	062651	Classification: Hydroformer (670.35)
12-18-79	062779	Classification: Plastic milk cup and breast shield (772.42, 774.60)
12-17-79	062955	Classification: Coin medal (740.60)

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

Paul P. Rao
Morgan Ford
Scovel Richardson
Frederick Landis

James L. Watson
Herbert N. Maletz
Besnard Newman
Nils A. Boe

Senior Judge

Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Customs Decision

(C.D. 4837)

BRANIFF AIRWAYS, INC., PLAINTIFF, v. THE UNITED STATES, *
DEFENDANT

Court No. 75-3-00646

Memorandum Opinion Accompanying Order

[Defendant's motion for rehearing denied.]

(Dated January 17, 1980)

Arnold & Porter (Paul S. Berger and Kenneth A. Letzler on the brief), for the plaintiff.

Alice Daniel, Assistant Attorney General, Joseph I. Liebman, Attorney in

Charge, Field Office for Customs Litigation (*James A. Resti* on the brief), for the defendant.

BOE, Judge: The above-entitled action has been submitted to this court by the respective parties pursuant to a stipulation of fact and submission filed under date of May 31, 1979. In said document it is specifically provided:

It is further agreed and stipulated by and between counsel for Braniff and the Assistant Attorney General for the United States that:

This case be submitted on the pleadings heretofore filed in this case and this stipulation; * * *.

The question of law presented by the parties entailed whether a manufacturer's negotiated warranty with respect to certain aircraft made in and exported from Great Britain may be included in the appraised constructed value of the said aircraft upon entry into the United States. Neither the pleadings nor the accompanying stipulation provide nor reflect facts as to the determination of general expenses and profit on the basis of constructed value required in section 402(d), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956 (19 U.S.C. 1401a).

In an order made and entered under date of November 14, 1979, this court determined:

In view, therefore, of the existence of a genuine issue of material facts remaining in connection with the determination of the appraised constructed value of the subject merchandise, judgment on the pleadings and on the accompanying stipulation of facts filed herein cannot be granted; * * *.

In a motion for rehearing filed under date of November 30, 1979, the defendant contends that judgment should be entered for the defendant for the reason that by the omission in the pleadings and the stipulation of the facts required to be established by subsection 2 of section 401(d) of the Tariff Act of 1930, as amended (constructed value statute), the plaintiff has failed to overcome the presumption of correctness attaching to the liquidated appraisement of the merchandise in issue. In support of its contention the defendant relies on the decisions of this court and our appellate court in the cases of: *American Mail Line, Ltd. v. United States*, 35 Cust. Ct. 142, C.D. 1735 (1955); *Dorward & Sons Co., Pacific Vegetable Oil Corp. v. United States*, 40 CCPA 159, C.A.D. 512 (1953); *Dana Perfumes Corp. v. United States*, 63 CCPA 43, C.A.D. 1162, 524 F. 2d 750 (1975).

It is true that the evidence presented to the court therein consisted either in whole or in part of a stipulation of facts between the parties. Notwithstanding that it is acknowledged that a party may be bound by facts to which it has stipulated in the same manner as it is bound

by the oral testimony of witnesses which may have been presented, this court is of the opinion that the rule of law expressed in the afore-cited decisions are neither applicable to nor determinative of the motion presently urged by the defendant. In each of said decisions it will be noted that the cause of action was tried and submitted to the court for final determination on the merits. In the presentation of its evidence the plaintiff necessarily must be aware that the court possesses the judicial discretionary authority to determine the case upon the evidence submitted, irrespective of the sufficiency thereof. The decisions relied upon by the defendant, therefore, can be viewed only as an affirmation of the exercise of such discretionary power by the trial court, notwithstanding that subsequent to the entry of judgment it might appear that an order of remand or rehearing could have provided the opportunity for the presentation of additional material evidence. Had this court been faced after a full evidentiary trial with the record as it now stands, that is, a set of pleadings and a stipulation of facts, a situation similar to that presented in *Dorward*, it may have concluded that it was appropriate to decide the case on the merits on the basis of the record before it.

However, the posture of the present action at the time of the entry of this court's order under date of November 14, 1979, denying judgment on the pleadings and accompanying stipulation of facts is far different from an action wherein the court has accepted the same for final determination and, accordingly, has so rendered its decision on the merits, irrespective of whether such an adjudication has been made on evidence submitted on the oral testimony of witnesses or on a stipulation of facts agreed upon by the parties.

What then is the true posture of the present proceeding?

Under the rules of the Customs Court, a cause of action may be determined, other than by an evidentiary trial, by the following:

- (1) Submission on agreed statement of facts as provided by rule 8.1;
- (2) Judgment on the pleadings as provided by rule 4.9; and
- (3) Summary judgment as provided by rule 8.2.

It is patently evident that the submission to this court on the pleadings and the accompanying stipulation of facts in the above-entitled action is not within the purview nor intent of rule 8.1. As clearly contemplated by section (a) of the rule, this procedure is intended to be utilized only in such cases wherein an agreed settlement of an action has been made by the parties. As further provided by the rule such a statement of agreed settlement together with a proposed decision and judgment shall be submitted to the court. No decision by the court is required other than the approval of the statement of

agreed settlement by the entry of the proposed decision and judgment which has been submitted in connection therewith.

The stipulation filed in the above-entitled action has been accepted by this court, in accordance with the specific terms thereof, as a submission on the pleadings together with the accompanying stipulated facts within the purview of rule 4.9. The foregoing rule clearly defines the manner in which such a submission shall be treated by providing in pertinent part:

* * * If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and are not excluded by the court, the motion *shall* be treated as one for summary judgment and shall be disposed of as provided in rule 8.2, and all parties shall be given reasonable opportunity to present all material made pertinent to such motion by rule 8.2. [Italic supplied.]

It would appear clear that the stipulation of facts submitted to this court in conjunction with the submission on the pleadings indeed are "matters outside the pleadings" within the contemplation of the aforementioned rule and that, accordingly, the court is without discretion but to treat the submission as one for summary judgment. See *Transamerican Electronics Corp. v. United States*, 70 Cust. Ct. 35, C.D. 4405 (1973).

The provisions of rule 8.2 provide that summary judgment may be rendered in favor of any party entitled thereto as a matter of law "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact" (rule 8.2(d)). Practice in the Customs Court repeatedly has been punctuated by a denial of summary judgment where the court in its discretion has found a genuine issue of material fact to exist.

Predicated on the foregoing, this court in its prior order denying judgment on the pleadings and the accompanying stipulated facts submitted by the parties has found that an issue as to a material fact exists. In short, this court has determined that the action is not "ripe" at this time for an adjudication of the question of law concerning which the respective parties mutually seek a decision.¹ The conduct of this court in so doing is dictated by the rules of procedure established herein as they may be applied to the specific proceedings brought before it, not by what might have been the otherwise subjective intent of counsel.

In the case of *C. J. Tower & Sons of Buffalo, Inc., a/c Metco, Inc. v. United States*, 68 Cust. Ct. 377, C.R.D. 72-11 (1972), Judge Herbert

¹ This discretionary judicial prerogative is not without precedent. In the case of *United States v. H. A. Gogarty, Inc., a/c A. H. Walter & Co., Inc.*, 42 Cust. Ct. 680, R.D. 9468 (1959), Judge Donlon of this court, "in the interest of justice," set aside a stipulation of facts as insufficient to permit a determination of the action before the court and restored the case to the trial calendar for the presentation of such additional proof as might be required.

Maletz of this court in a well-reasoned and comprehensive opinion has examined the effect of denial of judgment on the pleadings upon the right of a party to subsequently prove facts necessary to sustain its claim. Although in the *Tower* case cross-motions were presented by the respective parties, the reasoning of the court is completely applicable to the proceedings at bar. The court in its decision stated:

It is important to add, however, that although plaintiff proceeded on the wrong legal theory, it does not necessarily follow that it is precluded from proving the facts necessary to establish its claim or that defendant is thereby entitled to judgment on its cross-motion. *Ramsouer v. Midland Valley R. Co.*, 135 F. 2d 101 (CA8 1943); *Ideal Development Co. v. Costello*, 217 F. Supp. 365 (E.D. Pa. 1963). In this latter connection, the test, on defendant's motion for judgment on the pleadings (or summary judgment), is whether, viewing the pleaded facts in the light most favorable to plaintiff, there is any basis upon which the latter might recover. In other words, the opposing party must be given the benefit of all reasonable inferences favorable to it which might be drawn from the pleadings. *United States v. Diebold, Inc.*, 369 U.S. 654 (1962); *Empire Electronics v. United States*, 311 F. 2d 175 (CA2 1962); *National Labor Relations Board v. Weirton Steel Company*, 146 F. 2d 144 (CA3 1944); *Ramsouer v. Midland Valley R. Co.*, *supra*, 135 F. 2d 101. If it is at all possible that plaintiff may be able to meet its burden of proof, it is inappropriate to grant judgment against it. *Williams v. Chick*, 373 F. 2d 330 (CA8 1967); *Melo-Sonics Corp. v. Cropp*, 342 F. 2d 856 (CA3 1965); *Dotschay v. National Mutual Ins. Co. of District of Columbia*, 246 F. 2d 221 (CA5 1957); *Dyson v. General Motors Corporation*, 298 F. Supp. 1064 (E.D. Pa. 1969).

Considering the present pleadings with the foregoing in mind, it cannot be said with any degree of certainty that plaintiff would be unable to offer proofs tending to establish the ultimate facts necessary to support its claim for classification of the merchandise as nickel powder under item 620.32, specifically, that it is a nickel alloy in a basic shape or form. This being the situation, plaintiff should not be foreclosed from the opportunity to present its proofs. *Melo-Sonics Corp. v. Cropp*, *supra*, 342 F. 2d 856; *Williams v. Chick*, *supra*, 373 F. 2d 330. [Italics in original; emphasis supplied.]

The acceptance of the contention of the defendant inevitably would lead to the fallacious ultimate conclusion that notwithstanding the nature of any proceeding, whether it be in the form of judgment on the pleadings or in the form of summary judgment, a stipulation of facts between parties would require the entry of judgment for the defendant if, in such a stipulation, the absence or omission of any material fact precludes the plaintiff from overcoming the presumption of correctness attaching to the liquidated appraisal or classification. Such a conclusion would destroy the basic and fundamental obligation of a trial court, namely—to determine when a cause of action is "ripe" for

the determination of a question of law that might have been presented by the parties. It likewise would destroy and leave valueless the very purpose and intent contemplated by our respective procedures for summary determinations. If a party in attempting to seek a speedy adjudication by presenting its action to the court for possible determination by means of judgment on the pleadings or summary judgment finds itself precluded from offering further evidence which the court believes necessary to the ultimate determination of the action, future resort to such procedures most assuredly could not be expected to be utilized.

The plaintiff in its response to defendant's motion for rehearing has indicated its willingness and ability to provide the proof required by the statute. It is indeed difficult to perceive wherein the rights of the defendant are prejudiced by the resolution of an existing material issue of fact in the manner as prescribed by rule 8.2 prior to the adjudication of the question of law involved herein. In conformity, therefore, with the provisions of rule 8.2(e), after having had a further opportunity to confer with respective counsel, the court may ascertain what material facts, if any, in good faith continued to be in issue and with the agreement of counsel provide for the presentation of further stipulations, affidavits, or other evidence for the resolution of such material facts remaining in issue in order to expeditiously permit the adjudication of the question of law originally presented by the parties for determination by this court; now therefore, it is hereby

ORDERED that the motion of the defendant for rehearing of the order of this court made and entered on the 14th day of November, 1973, denying judgment on the pleadings and the accompanying stipulated facts submitted by the parties be and is hereby denied.

Decisions of the United States Customs Court

Customs Rules Decision

(C.R.D. 80-1)

ALBERTA GAS CHEMICALS, INC., PLAINTIFF, *v.* UNITED STATES,
DEFENDANT

Court No. 79-8-01295

*On Defendant's Motion for Dismissal and Alternative Motion for
Summary Judgment*

[Defendant's motions denied.]

(Dated January 17, 1980)

Freeman, Meade, Wasserman & Schneider, Esqs. (*Jack Gumpert Wasserman*,
Herbert Peter Larsen and *Philip Yale Simons*, Esqs., of counsel) for the plaintiff.

Alice Daniel, Assistant Attorney General, *David M. Cohen*, Director, Commercial Litigation Branch, and *Sheila N. Ziff*, trial attorney, Esqs., for the defendant.

NEWMAN, Judge:

INTRODUCTION

Plaintiff, an importer of methyl alcohol from Canada, contests the exclusion of its merchandise from entry by the Regional Commissioner of Customs at the Port of New York. Presently before me are defendant's motion for dismissal on the grounds that the court lacks jurisdiction of the subject matter and the action fails to present any justiciable issue; and alternatively, defendant's motion for summary judgment with respect to the merits of the complaint.

I have concluded that defendant's motions must be denied.

THE FACTS

The facts pertinent to the instant motions are not in dispute, and may be briefly summarized:

On March 23, 1979, the Treasury Department (Treasury) determined that methyl alcohol from Canada is being, or is likely to be,

sold at less than fair value (LTFV) within the meaning of section 201(a) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(a)). That determination was published in the Federal Register on March 30, 1979 (44 F.R. 19090).

On June 29, 1979, the U.S. International Trade Commission determined, in investigation No. AA1921-202, that an industry in the United States is likely to be injured by reason of the importation of methyl alcohol from Canada which Treasury had determined is being, or is likely to be, sold at LTFV. The Commission's determination was published on July 12, 1979 (44 F.R. 40734).

On July 23, 1979, Treasury issued a "Finding of Dumping" respecting methyl alcohol from Canada (T.D. 79-210), which finding was published in the Federal Register on July 27, 1979 (44 F.R. 44154).

The subject merchandise was exported from Canada on August 13, 1979. Entry papers (Customs form 7501)¹ and a check for estimated duties were presented by plaintiff to the appropriate Customs officer at the Port of New York on August 15, 1979. However, the entry was rejected by Customs for the reason that the importer refused to file an antidumping bond (Customs form 7591) in accordance with 19 U.S.C. 167 and 19 CFR 153.50.² Attached to the proffered entry papers is a statement that plaintiff did not file a bond "for the reason that there exists no valid and legal finding under the Antidumping Act of 1921 which is applicable to this class or kind of merchandise, and that the finding of the Secretary of the Treasury, T.D. 79-210, 44 F.R. 4415 of July 27, 1979, purportedly made pursuant to section 201 of the Act is illegal, *ultra vires*, null, and void, and that its publication was erroneous and contrary to law." Also attached to the tendered entry papers is a "Correction Slip" in which Customs advised: "Importer must obtain and present antidumping bond (Customs form 7591). See Customs Regulations 153.50 and 19 U.S.C. 167. T.D. 79-210 (the Finding of Dumping) applies."

The complaint in this action contests the exclusion of plaintiff's merchandise from entry and delivery "and the legality of all orders and findings of the U.S. International Trade Commission and of the Secretary of the Treasury entering into the Regional Commissioner's decision." In this connection, plaintiff alleges that the sole ground for the exclusion of the subject merchandise from entry was that plaintiff did not proffer an antidumping bond; and that the sole ground for the Regional Commissioner's demand for a bond was the Secretary's finding of dumping. Continuing, the complaint alleges that the Regional Commissioner erred in demanding, pursuant to section 208

¹ Consumption entry No. 79-638078-8.

² Plaintiff states in its brief that the subject merchandise is presently held in "General Order," awaiting the outcome of this case.

of the Antidumping Act of 1921, as amended (19 U.S.C. 167), the posting of an antidumping bond (Customs form 7591), and in excluding the merchandise from entry and delivery to plaintiff in the absence of such bond; that the Secretary's finding of dumping is illegal, *ultra vires*, null, and void; and that plaintiff is entitled to the entry and delivery of its merchandise without the posting of an antidumping bond because no legal and valid finding of dumping covers the merchandise. The complaint then sets forth three causes of action, each of which controverts some phase of the antidumping proceedings leading to the Secretary's finding of dumping, including the Secretary's LTFV investigation and determination, and the subsequent affirmative injury determination by the Commission. The relief sought by plaintiff in its complaint is an adjudication that the Secretary's finding of dumping is illegal, null, and void; that the Antidumping Act of 1921 is therefore inapplicable to exportations of methyl alcohol from Canada; and an order that the Regional Commissioner accept plaintiff's entry and deliver the merchandise to plaintiff without filing an antidumping bond. The complaint does not challenge the assessment of any duty nor seek a refund.

STATUTES INVOLVED

The statutory provisions involved, so far as pertinent, read:

19 U.S.C. 167:

In the case of all imported merchandise * * * of a class or kind as to which the Secretary of the Treasury has made public a finding [of dumping] * * *, and delivery of which has not been made by the appropriate customs officer before such finding has been so made public * * *, it shall be unlawful for such customs officer to deliver the merchandise until [the importer] has * * * given bond to such customs officer * * *.

*19 U.S.C. 1514:**(a) Finality of decisions; return of papers*

Except as provided in section 1501 of this title (relating to voluntary reliquidations), section 1516 of this title (relating to petitions by American manufacturers, producers, and wholesalers), section 1520 of this title (relating to refunds and errors), and section 1521 of this title (relating to reliquidations on account of fraud), decisions of the appropriate customs officer, including the legality of all orders and findings entering into the same, as to—

- (1) the appraised value of merchandise;
- (2) the classification and rate and amount of duties chargeable;
- (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;
- (4) the exclusion of merchandise from entry or delivery under any provision of the customs laws;
- (5) the liquidation or reliquidation of an entry, or any modification thereof;

(6) the refusal to pay a claim for drawback; and

(7) the refusal to reliquidate an entry under section 1520(c) of this title,

shall be final and conclusive upon all persons (including the United States and any officer thereof) unless a protest is filed in accordance with this section, or unless a civil action contesting the denial of a protest, in whole or in part, is commenced in the U.S. Customs Court in accordance with section 2632 of title 28 within the time prescribed by section 2631 of that title. When a judgment or order of the U.S. Customs Court has become final, the papers transmitted shall be returned, together with a copy of the judgment or order to the appropriate customs officer, who shall take action accordingly.

* * * * *

28 U.S.C. 1582:

(a) The Customs Court shall have exclusive jurisdiction of civil actions instituted by any person whose protest pursuant to the Tariff Act of 1930, as amended, has been denied, in whole or in part, by the appropriate customs officer, where the administrative decision, including the legality of all orders and findings entering into the same, involves: (1) The appraised value of merchandise; (2) the classification and rate and amount of duties chargeable; (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury; (4) the exclusion of merchandise from entry or delivery under any provisions of the customs laws; (5) the liquidation or reliquidation of an entry, or a modification thereof; (6) the refusal to pay a claim for drawback; or (7) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930, as amended.

* * * * *

PARTIES' CONTENTIONS

The nub of defendant's motion to dismiss is that plaintiff has not raised any issues which may properly be considered by this court in reviewing an administrative decision (including the legality of all orders and findings entering into the same) as to the exclusion of merchandise from entry or delivery under any provision of the Customs law.³ Specifically, defendant's position is that, until an entry has been liquidated and dumping duties assessed, no justiciable issue can be presented concerning the administrative findings and determinations made in the antidumping proceedings, and therefore this action was brought prematurely. Defendant further maintains that plaintiff's action is, in essence, one for a declaratory judgment, which this court is without jurisdiction to grant.

The gravamen of plaintiff's complaint is that its merchandise has been wrongfully excluded from entry and delivery under the provi-

³ Defendant's reply brief (p. 2) contends that "the only matters reviewable at this time would be those relating to the bond requirements, such as the validity of the foregoing provisions [19 U.S.C. 167 and 19 CFR 153.50 and 153.51(b)], a claim of procedural irregularity pertaining to the bond requirement, or an assertion that the dumping finding is inapplicable to the involved merchandise (e.g., that the subject shipment is not methyl alcohol or is not from Canada)."

sions of the Customs laws requiring the filing of an antidumping bond (19 U.S.C. 167; 19 CFR 153.50); that this court possesses jurisdiction under 28 U.S.C. 1582(a)(4) to review the denial of a protest against such exclusion, including the legality of all orders and findings entering into the same. On the latter aspect, plaintiff urges that an antidumping bond was demanded by Customs because of the Secretary's finding of dumping (and the underlying determinations in the antidumping proceeding), and consequently the legality of the finding presents a justifiable issue within the court's jurisdiction under 28 U.S.C. 1582(a)(4) to review "the legality of all orders and findings entering into the [exclusion]."

THE ISSUE

As may be noted, under 28 U.S.C. 1582(a)(4) this court has exclusive jurisdiction to review the denial of a protest against "the exclusion of the merchandise from entry or delivery under any provisions of the Customs laws," and "the legality of all orders and findings entering into the same." The crux of the issue in this case is whether the finding of dumping and administrative determinations in the antidumping proceedings contested in the complaint constitute "orders and findings entering into" the administrative decision excluding the merchandise from entry.

OPINION

Preliminarily, it should be observed there is no dispute that under 28 U.S.C. 1582(a) this court has jurisdiction over an action brought by an importer contesting an assessment of dumping duties and all underlying administrative determinations. Thus, "(i)n such cases (the Customs Court) may review the actions of the Secretary of the Treasury and the Tariff Commission (now U.S. International Trade Commission) to determine whether the procedures prescribed by Congress have been followed and whether the Secretary, the Tariff Commission, or their delegates have proceeded within the statutory authority or whether their actions are *ultra vires* and void." *Matsushita Electric Industrial Company, Ltd., et al. v. United States Treasury Department et al.*, 67 Cust. Ct. 328, 331, C.D. 4292 (1971), *aff'd*, 60 CCPA 85, C.A.D. 1086, 485 F. 2d 1402 (1973), *cert. denied*, 414 U.S. 821 (1973).

But here, there has been no assessment of dumping duties. Indeed, the subject merchandise has been excluded from entry, and plaintiff predicates this court's jurisdiction on 28 U.S.C. 1582(a)(4), pursuant to which this court may review the denial of a protest against the exclusion of merchandise from entry or delivery under any provision of the Customs laws, including the legality of *all* orders and findings entering into the same.

As we have seen, the merchandise was excluded from entry and delivery solely because of plaintiff's refusal to file the antidumping bond required by 19 U.S.C. 167 and the Customs Regulations, cited *supra*. Plaintiff insists that it is entitled to entry and delivery of the subject merchandise without filing an antidumping bond on the ground that the finding of dumping is illegal, null, and void.

Plainly, the legality of Customs demand for a bond and the exclusion of the merchandise from entry because of plaintiff's refusal to file a bond rest upon the legality of the underlying finding of dumping. If that finding is valid, then Customs demand for a bond is unquestionably correct. If, on the other hand, the Secretary's finding is invalid, as claimed by plaintiff, then the insistence of Customs upon the filing of a bond is erroneous, and plaintiff is entitled to acceptance of its proffered entry and the delivery of the subject merchandise (assuming all other entry requirements have been satisfied).

If plaintiff had complied with Customs demand for the posting of an antidumping bond and entered its merchandise, any issue raised after entry concerning the legality of the exclusion for refusal to file a bond would be moot. Since the court is not empowered to decide moot questions, plaintiff acted appropriately and within its rights in refusing to file a bond and presenting the issue of the legality of the exclusion of its merchandise from entry pursuant to 19 U.S.C. 1514(a)(4) and 28 U.S.C. 1582(a)(4). *Cf. Southwestern Sugar & Molasses Co., Inc. v. United States*, 21 Cust. Ct. 8, C.D. 1117 (1948). Plaintiff's claim falls within a class of administrative decisions which are contestable prior to liquidation and payment of duties. *Schenley Distillers, Inc. v. United States*, 65 Cust. Ct. 651, C.D. 4152 (1970); *Central Commodities Corp. v. United States*, 6 Cust. Ct. 452, C.D. 514 (1941). Further, inasmuch as plaintiff's action falls squarely within the relief this court may grant under 28 U.S.C. 1582(a)(4), defendant's contention that plaintiff's action calls for a declaratory judgment is totally without merit.

The right of the plaintiff to challenge an underlying finding entering into the exclusion of its merchandise from entry is expressly authorized by that portion of 19 U.S.C. 1514(a) which provides for filing of a protest against "decisions of the appropriate customs officer, including the legality of all orders and findings entering into the same." (Italic added.) It is true that the finding of dumping *per se* did not exclude the merchandise from entry. Nevertheless, the Secretary's finding is inextricably linked to and bound up with the subsequent chain of events: Customs demand for an antidumping bond (predicated upon the finding), plaintiff's refusal to file such bond, and the ultimate exclusion of the merchandise from entry because of that refusal. Hence, I conclude that the Secretary's finding of dumping

entered into the administrative decision excluding the merchandise from entry and delivery; and that the complaint presents justiciable issues respecting the legality of that finding within the jurisdiction of this court under 28 U.S.C. 1582(a) (4). Defendant's highly restrictive interpretation of the statute to the contrary is not supported by any legislative history called to my attention, and I find that prior judicial decisions relied on by defendant are readily distinguishable.

Defendant relies heavily on my prior decision in *Alberta Gas Chemicals, Inc. v. W. Michael Blumenthal, Secretary of the Treasury, et al.*, 82 Cust. Ct. 77, C.D. 4792, 467, F. Supp. 1245 (1979). There, the plaintiff challenged the validity of the Treasury's antidumping investigation prior to liquidation and assessment of dumping duties, and brought an action for a declaratory judgment and ancillary relief pursuant to 28 U.S.C. 2201 and 2202. Plaintiff moved for summary judgment, and defendant cross-moved for dismissal on the ground that the statutory prerequisites for invoking the court's jurisdiction under 28 U.S.C. 1582 had not been complied with. In granting defendant's motion to dismiss for lack of jurisdiction, I rejected plaintiff's argument that it was contesting an order or finding entering into a "charge or exaction" within the purview of subdivision (a)(3) of sections 1582 and 1514. Moreover, in the prior case, since no finding of dumping was in effect, no antidumping bond could be demanded, and there was no exclusion of merchandise from entry or delivery. However, the thrust of plaintiff's present action is to challenge an exclusion of its merchandise from entry as authorized by subdivision (a)(4) of sections 1582 and 1514, which makes the prior case irrelevant to the present issue. The other cases cited by defendant for the proposition that plaintiff's action is premature⁴ are distinguishable for the same reason, viz, they did not involve an action against exclusion of merchandise from entry, and thus the court's jurisdiction under 28 U.S.C. 1582(a)(4) was not invoked, as in the instant case.

Additionally, defendant argues that *Central Commodities Corp. v. United States*, 6 Cust. Ct. 452, C.D. 514 (1941) is controlling on the facts in the instant case. In *Central Commodities*, plaintiff filed a protest against the collector's exclusion of merchandise from entry because of the plaintiff's failure to deposit (in addition to a bond covering estimated countervailing duties and a certified check for regular import duties) payment of estimated countervailing duties of 25 percent.

⁴ *J. C. Penney Company, Inc. v. United States Treasury Department* 439 F. 2d 63 (C.A. 2, 1971), cert. denied, 404 U.S. 809 (1971); *In re N.C. Trading, A Division of Minemet Metals, Inc.*, 66 CCPA —, C.A.D. 1215, 586 F. 2d 221 (1978); *Matsushita Electric Industrial Company, Ltd., et al. v. United States Treasury Department et al.*, 67 Cust. Ct. 328, C.D. 4292 (1971), aff'd, 60 CCPA 85, C.A.D. 1086, 485 F. 2d 1402 (1973), cert. denied, 414 U.S. 821 (1973); *Russell Stanfield Dexter v. United States*, 78 Cust. Ct. 179, C.R.D. 77-1, 424 F. Supp. 1069 (1977); *Flinthote Company, Glens Falls Division v. W. Michael Blumenthal, Secretary of the Treasury*, Civil Action 78-CV-640 (N.D.N.Y. 1979) (unreported memorandum decision), aff'd, 596 F. 2d 51 (C.A. 2, 1979).

Plaintiff sought an order directing the collector to permit entry and accept the deposit of duty which the plaintiff estimated was due. In addition to the issue concerning the correct estimated duties to be deposited upon entry, plaintiff attempted to argue the issue as to whether the merchandise was subject to countervailing duties. Respecting the latter, Judge Cline commented (6 Cust. Ct. at 455): "That argument relates to the rate or amount of duties and the law gives the importer the right to protest against the rate or amount of duties within 60 days after, but not before, liquidation."

In short, *Central Commodities Corp.* is clearly distinguishable from the present case, since here, plaintiff's challenge to the legality of the finding of dumping as underlying the imposition of an antidumping bond does not involve any question of rate or amount of duties.

Defendant also cites in support of its position *McKesson & Robbins (Inc.) v. United States*, 43 Treas. Dec. 214, T.D. 39511 (1923) and *S. J. Charia & Co. v. United States*, 33 Cust. Ct. 107, C.D. 1642, 135 F. Supp. 727 (1954), *aff'd*, 43 CCPA 147, C.A.D. 622, 248 F. 2d 124 (1956).

In *McKesson*, the Board of General Appraisers (predecessor of the Customs Court) held that the collector's refusal to accept tender of an entry for withdrawal and transportation in bond to the Port of New Orleans, of opium which had been imported into New York, was properly protestable under section 514 of the Tariff Act of 1922. Noting that the collector had refused to accept entry in accordance with certain regulations of the Federal Narcotics Control Board allowing crude opium to be entered for transportation in bond only between certain designated ports, which did not include New Orleans, the Board stated that *the sole issue presented was whether or not the Federal Narcotics Control Board exceeded its statutory power in promulgating the regulations cited by the collector as authority for his decision refusing the tendered entry of the importer.*

And in *Charia*, the collector excluded from entry certain cigar lighters that were sought to be imported into the United States by plaintiff. The exclusion of plaintiff's entry was predicated upon a Presidential order issued pursuant to the provisions of section 337 of the Tariff Act of 1930 relating to unfair practices in the import trade. Plaintiff contested the exclusion by disputing that the underlying Presidential order was applicable to its merchandise and challenging the constitutionality of that order.

Neither *McKesson* nor *Charia* supports the narrow construction of 28 U.S.C. 1582(a)(4) urged by defendant. Rather, these cases support plaintiff's claim that, under the "exclusion jurisdiction" of this court, the legality of all underlying findings and orders (and regulations) may be determined. As I construe the relevant jurisdic-

tional statutory provisions herein, it is entirely appropriate for plaintiff to challenge the underlying findings entering into the exclusion of its merchandise from entry for refusal to file an antidumping bond, and plaintiff was not required to make entry and await a liquidation and assessment of dumping duties. The fact that the finding of dumping (and underlying determinations) sought to be challenged by plaintiff in this action could be contested after entry, liquidation and assessment of dumping duties does not preclude plaintiff from proceeding expeditiously in this action against exclusion to protect any present rights it may have to enter its merchandise without filing an antidumping bond. This approach is consistent with those cases relied upon by defendant wherein the court held that an importer whose entry is rejected has a cause of action arising out of the refusal to accept the entry, as well as a *separate* cause of action arising out of liquidation of the entry. See *A. N. Deringer, Inc. v. United States*, 37 Cust. Ct. 166, C.D. 1818 (1956), and *Border Brokerage Co. v. United States*, 43 Cust. Ct. 226, C.D. 2131 (1959), *rev'd on other grounds*, 48 CCPA 10, C.A.D. 754 (1960).

We reach defendant's contention that if plaintiff's position herein is accepted, other importers by refusing to comply with an entry requirement will be able to obtain expeditious judicial review under 28 U.S.C. 1582(a)(4) of contested classifications, valuations, and a wide range of other administrative decisions without payment of any liquidated duties. I find no merit in that argument since under 28 U.S.C. 1582(a)(4), this court may review only the legality of orders and findings *entering into the exclusion of merchandise from entry or delivery*. Hence, only where the classification of merchandise enters into the administrative decision excluding the merchandise from entry or delivery could the classification be contested prior to liquidation. For example, in *Western Dairy Products, Inc. v. United States*, 72 Cust. Ct. 75, C.D. 4506, 373 F. Supp. 568 (1974), *aff'd*, 62 CCPA 37, C.A.D. 1142, 510 F. 2d 376 (1975), the issue was whether certain calcium-reduced, dried, skim milk was classifiable under the TSUS as an article of milk and thus subject, as Customs determined, to certain license requirements proclaimed by the President pursuant to the Agricultural Adjustment Act, or classifiable under the TSUS as an edible preparation, not specially provided for. Customs refused to allow the withdrawal of the merchandise from warehouse for consumption because of plaintiff's failure to obtain a license from the Secretary of Agriculture. Plaintiff having failed to establish that the import was not an article of milk, as classified by Customs, the court held that the merchandise was subject to the license, and the Government's decision refusing to release the product for consumption in the United States without a license was sustained.

Finally, we consider plaintiff's reference to section 1001(a) of the Trade Agreements Act of 1979, Public Law 96-39, 93 Stat. 300 et seq. which became effective January 1, 1980. On this aspect, plaintiff correctly points out that a new section 516A of the Tariff Act of 1930 (as enacted by sec. 1001(a) of the Trade Act) greatly expands the opportunity for judicial review in this court of the administrative determinations in countervailing and antidumping duty matters prior to the imposition of such duties.⁵ While these new provisions, which expedite judicial review, are undoubtedly salubrious, I must agree with defendant's contention that they have no applicability in the instant case.

CONCLUSION

For the reasons stated herein, I have concluded that pursuant to 28 U.S.C. 1582(a)(4) this court clearly has jurisdiction to determine the legality of the exclusion of plaintiff's merchandise from entry for refusal to file an antidumping bond, and in that connection to decide the legality of the Secretary's underlying finding of dumping (T.D. 79-210). Accordingly, I hold that the complaint presents justiciable issues that may be determined in this action; and therefore, defendant's motion to dismiss is denied.

Defendant's alternative motion for summary judgment is premature and therefore not properly before the court at this juncture. Rule 8.2(a) of this court provides that a motion for summary judgment may be made "*at any time after a responsive pleading has been filed.*" [Italic added.] Defendant has not filed an answer or other responsive pleading to the complaint. Hence, defendant's suggestion that the court ignore the procedural requirements of its own rule 8.2(a) and instead follow rule 56(b) of the Federal Rules of Civil Procedure, which allows the party against whom a claim is asserted to move, at any time, for a summary judgment, is without merit.⁶ Accordingly, defendant's alternative motion for summary judgment respecting the merits of the complaint is denied. Defendant shall serve and file its answer to the complaint within 30 days after service of this order.

⁵ Under sec. 516A(a)(2)(A), an action may be commenced by any person with standing within 30 days after the date of publication in the Federal Register of any antidumping or countervailing order or notice of determination.

⁶ Rule 8.2(b), as amended on Jan. 1, 1980, permits a party against whom a claim is asserted to move for a summary judgment at any time after the filing of a complaint. This amendment is applicable to "*further proceedings* in actions then pending, except to the extent that in the opinion of the court (its) application in a particular action then pending would not be feasible or would work injustice, in which event the former procedure applies" [Italic added]. In the instant case, both defendant's alternative motion for summary judgment and plaintiff's opposition thereto were filed prior to Jan. 1, 1980, in reliance upon the provisions of old rule 8.2, and hence are *pending* proceedings rather than "*further proceedings.*" Indeed, neither plaintiff nor defendant made any reference whatever to the proposed new rule. Moreover, plaintiff's memoranda do not address the merits of the case.

Under these circumstances, it is clear that the new rule has no application in this case, and in any event its application would "work injustice" to plaintiff.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *January 21, 1980.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate			
1780/16	Ford, J. January 14, 1980	Hawker Siddeley Cana- da, Ltd., et al.	70-6-01369, etc.	Item 692.35 5.5%	Item 692.30 Free of duty		U.S. v. Norman G. Jensen, Inc. (C.A.D. 1183)	Champlain-Rouses Point (Ogdensburg) Skidder tractors
1780/17	Maletz, J. January 14, 1980	Nadel & Sons Toy Corp.	78-4-00397	Item 737.90 17.8%	Item 734.20 5.5%		Mego Corp. v. U.S. (C.A. D. 1137)	New York "Pin ball game" or "slot machine game"

Judgment of the U.S. Customs Court in Appealed Case

JANUARY 17, 1980

APPEAL 79-8.—United States *v.* Reliable Chemical Company.—PROTEST FILED PRIOR TO OFFICIAL NOTICE OF LIQUIDATION—MOTION TO DISMISS FOR LACK OF JURISDICTION—MOTION TO SUSPEND.—Order of July 26, 1978 (C.R.D. 78-11), rehearing denied October 11, 1978, denying defendant's motion to dismiss reversed September 13, 1979 (C.A.D. 1232); action dismissed for lack of jurisdiction.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

[TA-203-6]

COLOR TELEVISION RECEIVERS AND SUBASSEMBLIES THEREOF

Notice of Prehearing Conference and Request for Prehearing Briefs

Background.—The U.S. International Trade Commission on December 31, 1979, instituted investigation No. TA-203-6, "Color Television Receivers and Subassemblies Thereof," and ordered a public hearing to be held in connection with the investigation on March 5, 1980 (45 F.R. 1950, January 9, 1980).

Prehearing conference ordered.—To facilitate the hearing process, a prehearing conference will be held on February 14, 1980, at 10 a.m., e.s.t., in room 117 of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. At this time copies of the Commission's report for the fourth calendar quarter 1979 on color television receiver imports, employment, man-hours, U.S. production, shipments, inventories, and prices will be made available. The prehearing conference will deal with such matters as allocating time for oral presentations at the public hearing, agreements on statistics, and stipulations.

Prehearing briefs.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the

hearing. Such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business Thursday, February 28, 1980. The Secretary will make copies of such briefs available to the public. While this does not prohibit submission or prepared statements in accordance with section 201.12(d) of the Commission's Rules of Practice and Procedure (19 CFR 201.12(d)), it would be unnecessary to submit such a statement if a prehearing brief is submitted instead. Any such statements will, of course, be made a part of the transcript. Oral presentations, however, should, to the extent possible, be limited to issues raised in the prehearing briefs.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

By order of the Commission.

Issued: January 18, 1980.

KENNETH R. MASON,
Secretary.

(332-106)

*Identification of Chemicals for the New Tariff Nomenclature for Certain
Benzenoid Chemicals*

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the U.S. International Trade Commission, at the request of the U.S. Trade Representative, has extended until February 11, 1980, the period for receipt of written comments on its preliminary determinations with respect to identification of chemicals for the new tariff nomenclature for certain benzenoid chemicals.

Notice of the Commission's investigation was published in the Federal Register of June 28, 1979 (44 F.R. 39315), and December 5, 1979 (44 F.R. 70009).

By order of the Commission.

Issued: January 18, 1980.

KENNETH R. MASON,
Secretary.

In the Matter of
CERTAIN ANAEROBIC IMPREGNATING
COMPOSITIONS AND COMPONENTS
THEREFOR

} Investigation No. 337-TA-71

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference previously scheduled for February 19, 1980, is canceled and rescheduled for February 25, 1980, at 9:30 a.m. in room 610, Bicentennial Building, Washington, D.C.

The hearing previously scheduled for February 25, 1980, is canceled and rescheduled for March 3, 1980, at 9:30 a.m. in room 610, Bicentennial Building, Washington, D.C.

The Secretary shall publish this notice in the Federal Register.

Issued: January 22, 1980.

JANET D. SAXON,
Administrative Law Judge.

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